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245 Ill. 334, 92 N. E. 251; *State v. School Board*, *supra*. A distinction has been made, however, between the reading of the Bible as a form of religious worship and as a mere class exercise. *State v. Scheve*, 65 Neb. 853, 93 N. W. 169.

The principal case takes the minority view; and the distinction made therein that the reading of the Bible is unconstitutional as to Jews, but not as to Roman Catholics, would appear unsound. The wrong, if any, arises not out of the particular version of the Bible, but in the compulsion to join in any form of worship. *State v. Scheve*, *supra*.

**CORPORATE STOCK—LIFE TENANT—EXTRAORDINARY DIVIDENDS.**—A testator bequeathed the revenue from certain corporate stocks to defendant during life. After the testator's death, the corporation declared an extraordinary cash dividend, payable in stock at the option of its stockholders, which the defendant claims as revenue. *Held*, the defendant's claim is proper. *Humphrey v. Lang* (N. C.), 86 S. E. 526. See 1 VA. L. REV. 138.

**CRIMINAL LAW—HOMICIDE—COEXISTENCE OF EXPRESS MALICE AND IRRESISTIBLE PASSION.**—A homicide took place under such circumstances as to cast doubt upon the condition of the defendant's mind at the time of the killing. At the trial, the jury was instructed that irresistible passion, if proved to have existed, was insufficient to reduce the degree of the offense, if the killing was done with express malice. *Held*, irresistible passion and express malice cannot coexist. *State v. Salgado* (Nev.), 150 Pac. 764.

Express malice, in connection with homicide, exists where an act is deliberately committed in the pursuance of a formed design to kill another. *State v. Roberts*, 2 Boyce (Del.), 140, 78 Atl. 305; *Martinez v. State*, 30 Tex. Cr. App. 129, 16 S. W. 767, 28 Am. St. Rep. 895. Further, the existence of deliberate malice being once ascertained, its continuance down to the time of the commission of the act will be presumed, unless evidence is introduced showing that the wicked purpose was abandoned. *State v. Johnson*, 23 N. C. 354, 35 Am. Dec. 742; *State v. Tilly*, 25 N. C. 424; *Riggs v. State*, 30 Miss. 635. Irresistible passion may be defined as that state of the mind in which men of average disposition act rashly or without due deliberation or reflection, and from passion rather than judgment. *Mahr v. People*, 10 Mich. 220; *State v. Johnson*, 129 Wis. 146, 108 N. W. 55, 5 L. R. A. (N. S.) 809. Uncontrollable and ungovernable temper is no excuse for a crime and does not reduce the killing to manslaughter, unless it arises from immediate and legally sufficient provocation. *Comm. v. Eckert*, 174 Pa. St. 137, 34 Atl. 305; *Henning v. State*, 106 Ind. 386, 6 N. E. 803, 55 Am. Rep. 756; *Reese v. State*, 90 Ala. 624, 8 So. 818. Homicide cannot be both malicious and in the heat of passion. Malice essential to murder in the first degree and passion essential to manslaughter cannot coexist at law, since the former implies a mind under the sway of reason while the latter results from a temporary loss of mental control. *Brown v. Comm.*, 86 Va. 466, 10 S. E. 745; *State v. Johnson*, 23 N. C. 354, 35 Am. Dec. 742; *State v. Sloan*, 22 Mont. 293.